ADMINISTRATIVE JUSTICE OFFICE

MINISTRY OF ATTORNEY GENERAL

2002/2003 ANNUAL REPORT

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Administrative Justice Office

Ministry of Attorney General
2002/2003 Annual Report

Introduction

In July 2001, the Attorney General initiated the Administrative Justice Project, the province's first comprehensive examination of British Columbia's administrative justice system. As part of its early work, the Project facilitated government's Core Services Review of 67 administrative tribunals and published 12 background papers and reports on a wide range of issues of interest to practitioners in the field of administrative law.

The Project's early work culminated in the release of a White Paper in August 2002 recommending more than 50 reforms to the province's administrative justice system. The White Paper, ***"On Balance: Guiding Principles for Administrative Justice Reform in British Columbia"***, the background papers and the results of the Core Services Review are posted on the Project's website at www.gov.bc.ca/ajp.

Following the release of the White Paper, the Attorney General took immediate steps to implement its recommendations. A program of law and policy reform was approved and initiated. A new office, the Administrative Justice Office, was established within the Ministry of Attorney General to lead the implementation and to develop within government a permanent centre of excellence on administrative justice reform. This is the first Annual Report of the new office.

A major reform initiative depends, for its success, on strategic partnerships that develop common goals, encourage the expression of diverse points of view and provide opportunities for resolving significant issues through consensus-building and debate. In carrying out its work, the Administrative Justice Project has been guided by these principles in consultations with government officials, tribunal members, practitioners and interested members of the public.

As it moves forward, the new Administrative Justice Office will continue to rely on invaluable contributions from interested individuals and committed organizations like the Circle of Chairs, the British Columbia Council of Administrative Tribunals, the Law Society of British Columbia and the British Columbia Branch of the Canadian Bar Association. The Office also encourages anyone who is interested in administrative justice reform to contact us at any time.

Organizational Profile

British Columbia has more than 40 independent administrative tribunals, a similar number of self-governing professional associations and a diverse array of statutory officers whose decisions affect people's everyday lives in profound ways. These decision makers work at the front line of our justice system and indeed they are often the only point of contact many people will ever have with the justice system.

Administrative tribunals were established, one tribunal at a time, over a period of more than 80 years. The first tribunal, the Workman's Compensation Board, was set up in 1916 to administer a scheme for collecting assessments from employers and adjudicating claims from injured workers.

New tribunals soon followed to meet the needs of the rapidly expanding social welfare state through a process which Norman Ward described almost forty years ago as "a comprehensive shifting of power" (The Government of Canada, R. MacGregor Dawson, (5th ed.), revised by Norman Ward, 1970, p. 266):

> "Parliament discovered that it could not take over all the additional burdens which fell to its lot under this new conception of state activity, and the judiciary was also unable to bring its functions into perfect harmony with the new demands which were made upon it."

After the Second World War, the British Columbia government, like its counterparts elsewhere, embraced the concept and values of administrative decision making. Tribunals were established to provide subject matter expertise and to ensure the achievement of government's public policy objectives. In their make-up and processes, tribunals were expected to be more accessible and less costly than the courts and to provide a forum for decision making at arm's length from the day-to-day operations and pressures of government.

In the ensuing decades, statutory decision making powers were conferred upon officials with responsibilities as diverse as the Superintendent of Motor Vehicles and the Chief Forester. The mandates of administrative agencies and decision makers were rich and varied, reflecting the diversity and character of an increasingly complex system of public administration.

Administrative decisions may be made in the first instance with or without internal powers of review. They may also take the form of appeals from the decisions of other frontline officials. Administrative decisions may be appealed directly to the courts or protected by strong privative clauses intended to shield all but serious jurisdictional error from judicial review. The options open to government in designing administrative processes are limited only by specific jurisdictional constraints and by the vision, imagination and foresight of government policy makers.

Complexity and diversity have fostered inconsistencies in appointment terms and in the tenure and compensation afforded to appointees. Administrative decision makers may be appointed by Cabinet or by ministerial order. They are, at times, also drawn from within the ranks of the professional public service. There has been little consistent guidance on how appointees should be selected and on how that selection process can be made more transparent and more accountable to the wider community.

While differences and distinctions are inherent in all complex systems, when viewed from a distance, the dominant characteristic of our system of administrative justice, as it existed in June 2001, could be said to be the lack of any dominant characteristic.

Background

In July 2001, shortly after taking office, Attorney General Geoff Plant initiated the Administrative Justice Project as the first ever comprehensive review of the province's administrative justice system. This initiative was to build on the excellent work that had been done in many other parts of Canada and throughout the common law world. It was also expected to establish a platform for public law for the twenty-first century that is citizen-focused, relevant, practical, accountable, fair, affordable and accessible.

The Administrative Justice Project developed its initial recommendations for reform in two ways. First, the Project was responsible for facilitating the Core Services Review of 67 administrative tribunals. As a result of this work, 21 tribunals were replaced with internal review processes within government or eliminated. A further 27 tribunals were amalgamated, streamlined or restructured. For the most part, this work has now been completed.

The second part of the Project's reform agenda began with the release of 12 Background Papers and Reports. These materials were intended to stimulate discussion and debate within the administrative justice community. And in fact, both before and after the release of the White Paper in August 2002, many thoughtful submissions were received as part of an extensive process of consultation with interested parties. The background papers and reports, the White Paper and a summary of the written responses to it are available on the Project's website.

Goals and Objectives

On behalf of government, the Administrative Justice Office is dedicated to strengthening the administrative justice system so that:

- administrative tribunals can continue to provide high quality services and meet the needs of the people they serve;
- their administrative processes are open and transparent;

- their mandates are modern and relevant; and
- government fulfills its obligations by providing the legislative and policy framework administrative tribunals require to carry out their independent mandates effectively.

As part of government, the Administrative Justice Office is also committed to delivering affordable public services and to ensuring that, in the design of administrative processes, scarce public resources are allocated to areas where they are most needed and most likely to be effective. In this respect, the principle of proportionality is a vital tool in assessing and evaluating proposed public policy responses.

Mandate

As the primary proponent of administrative justice reform within the government of British Columbia, the Administrative Justice Office has a broad and general mandate to:

- ensure that province's administrative justice system is positioned at the forefront of administrative justice reform among common law jurisdictions, providing leadership in the development of legislation and public policy;
- identify emerging issues and trends that are likely to impact or effect government's plans and priorities for administrative justice reform;
- implement the recommendations in the White Paper;
- provide leadership and advice in the review and assessment of administrative institutions, legislative proposals and practices affecting the governance and structure of administrative tribunals;
- provide leadership and advice in the co-operative development and implementation of the policy instruments and administrative structures required to enhance the governance and accountability of British Columbia's administrative tribunals;
- oversee the development of legislative initiatives to standardize the statutory powers and procedures of administrative tribunals and to address other issues of a substantive law reform nature;
- in consultation with the Board Resourcing and Development Office, host ministries and administrative tribunals, implement an appointment process that addresses the unique needs and circumstances of administrative tribunals;
- in consultation with the central agencies of government, host ministries and administrative tribunals, implement a governance model and accountability framework that fosters the decision making independence of administrative tribunals and furthers their public accountability;
- monitor developments and practices in other common law jurisdictions, ensuring that decision makers and practitioners in British Columbia are positioned to take

advantage of innovations that will enhance the overall effectiveness of the administrative justice system;

- provide the ongoing impetus for continuous improvement in the administrative justice system;
- speak on behalf of government on administrative justice issues in forums with key stakeholders, officials in other jurisdictions and members of the public; and
- report publicly through an annual report on progress to the Attorney General.

Key Issues

The tension that exists necessarily between decision making independence and public accountability is a central issue for administrative tribunals and for the governments that support them. Speaking to a meeting of the Canadian Bar Association in November 2002, the Attorney General observed that the right of individual tribunal members to deliberate freely and to decide on the merits of a case without interference, either real or perceived, lies at the heart of independence in administrative proceedings.

At the same time, government's commitment to public accountability demands openness and transparency in tribunal processes and a clear understanding about the mutual responsibilities, obligations and arrangements that exist both between host ministers and tribunal chairs and between tribunal chairs and members.

In meeting its goals and objectives and in carrying out its mandate, the Administrative Justice Office is committed to reforms that will lead to the definition and achievement of the right balance between the principles of independence and accountability across the administrative justice system. Developing these principles through consultation and consensus is fundamental to the success of the Office.

Accomplishments

The framework for the activities of the Administrative Justice Office is found in the principles developed through the Core Services Review and in the recommendations contained in the White Paper.

As a result of the Core Services Review, significant and wide-reaching organizational changes were implemented across the administrative justice system in the 2002/2003 fiscal year. In addition to contributing to the success of many of these initiatives, the Administrative Justice Office has provided leadership in the reform of the appointments process for administrative tribunals and has provided support to individual tribunals and host ministries in the development of new operating agreements.

Organizational Changes and the Core Services Review

As a government wide initiative, the Core Services Review was intended to ensure that public programs and services, including the province's administrative tribunals:

- continue to serve a compelling public purpose;
- are affordable;
- perform a legitimate and essential role;
- are the most efficient way to deliver the intended service; and
- are effective and accountable.

Across the administrative justice system, our participation in the Core Services Review was guided by a commitment to the following additional principles, namely to:

- enhance administrative decision making by directing resources to improvements in the quality and timeliness of initial decisions and by providing more opportunities for informal reviews and reconsiderations earlier in the adjudicative process;
- amend enabling legislation so administrative tribunals are able to access a full range of early dispute resolution techniques;
- foster greater certainty and finality in administrative decision making by eliminating unnecessary review and appeal processes;
- eliminate or restructure administrative tribunals where workloads were insufficient to support the development of a sufficient body of specialized knowledge and expertise; and
- structure the mandates of administrative tribunals so that they are indeed an appropriate and workable alternative to the courts.

Initial results of the Core Services Review for the administrative justice system were tabled by the Attorney General at Open Cabinet in February 2002. Across the administrative justice system:

- 12 tribunals were to be reconfigured;
- 13 tribunals were to be restructured;
- 8 tribunals were to be improved;
- 4 tribunals were to remain essentially unchanged; and
- 30 tribunals were to be subject to further review and discussion.

The implementation of recommendations from the Core Services Review continued throughout the fiscal year and its guiding principles will continue to be considered and applied as administrative tribunals are created, reformed or restructured.

A status report on the initiatives that have been taken or are planned to implement the Core Services Review decisions is included here as Appendix 1. Some of the highlights of the organizational changes that have been implemented over the past fiscal year as a result of the Core Services Review include the following:

Office for Children and Youth

On September 30, 2002, the new Office for Children and Youth was established, combining and replacing the former Office of the Child, Youth and Family Advocate and the former Children's Commission. In addition to the consolidation, the mandate of the new office has been more narrowly defined and it will be subject to a formal review and evaluation by the Attorney General within 5 years. (*Office for Children and Youth Act*, S.B.C. 2002, c. 50).

Employment and Assistance Appeal Tribunal

On September 30, 2002, a simplified appeal process replaced the former, multi-layered system of review and appeals under the old BC Benefits legislation. Applicants are now entitled to an internal reconsideration and an external appeal to the new Employment and Assistance Tribunal. The new tribunal, whose members are appointed as impartial adjudicators, replaces the former appeal panels, whose members included two individuals nominated by the parties and a neutral chair. (*Employment and Assistance Act*, S.B.C. 2002, c. 40).

Agricultural Land Commission

On November 1, 2002, a new agricultural land commission was established, providing a more effective role for regional interests in the constitution of the commission. (*Agricultural Land Commission Act*, S.B.C. 2002, c. 36).

Workers' Compensation Appeal Tribunal

On March 3, 2003, a new, streamlined process was adopted for the review and appeal of workers' compensation claims. The former Review Board and Appeal Division were eliminated, while the separate process for medical reviews has been integrated into the new system. The new appeal system provides a two-step process including an initial reconsideration within the WCB itself and a formal appeal, in defined circumstances, to a new, external appeal tribunal. (*Workers Compensation Amendment Act (No. 2) 2002*, S.B.C. 2002, c. 66).

Human Rights Tribunal

On March 31, 2003, the former Human Rights Commission was wound up and its investigative processes were replaced with a new, streamlined direct access model for human rights adjudication. By eliminating the commission and focussing resources in the new Human Rights Tribunal, issues of overlap and duplication have been addressed.

Legal advice to complainants and respondents is provided through a new clinic that is independent yet publicly funded and government, through the Ministry of Attorney General, will continue to discharge its international obligations for public education on human rights. (*Human Rights Code Amendment Act, 2002*, S.B.C. 2002, c. 62).

The Small Tribunals

Through various initiatives, a number of small tribunals have been eliminated including, for example, the Travel Assurance Board, the Liquor Appeal Board, the Motion Picture Appeal Board, the Mobile Home Park Dispute Resolution Committee and the Public Service Appeal Board. In eliminating these tribunals, government has established stronger internal review processes and encouraged more widespread use of early intervention and dispute resolution techniques so that as many matters as possible can be resolved with certainty and finality at the earliest opportunity.

Administrative Justice Reform and the White Paper

In the 2002/2003 year, the Administrative Justice Office continued its comprehensive process of law reform by publishing a number of new papers and reports, including its White Paper. All of the documents mentioned below are available on the Administrative Justice Project's website and have been circulated to interested parties both within and outside of the administrative justice system.

Background Papers

- *Human Rights Review*, *Standard of Review on Judicial Review or Appeal*, *Administrative Agencies and the Charter* and *Statutory Powers and Procedures*. Released in 2001/2002.
- *Reviewing Original Decisions: Guiding Principles and Options*, April 2002: Outlines principles for developing a review mechanism that brings together disparate policy, legal and practical factors in a comprehensive and organized way.
- *Appointments: A Policy Framework for Administrative Tribunals*, May 2002: Focuses on the value of an appointments process that is open, transparent and merit based and on an appropriate role for the tribunal chair in that process.

Reports in Support of the White Paper

- *Charter Jurisdiction*, July 2002.
- *Dispute Resolution*, July 2002.
- *Independence and Accountability*, July 2002.
- *Making Sound Appointments*, July 2002.

- *Providing Administrative Tribunals with Essential Powers and Procedures*, July 2002.
- *Standing to Appear before Administrative Tribunals*, July 2002.

White Paper

- *On Balance: Guiding Principles for Administrative Justice Reform in British Columbia*, July 2002: Details over 50 recommendations for reforms to British Columbia's administrative justice system.
- *Summary of Submissions Received in Response to the Administrative Justice Project's White Paper*, December 2002: Summarizes issues and concerns raised in response to the White Paper.

Appointments, Oversight and Accountability

Following publication of the White Paper, the Administrative Justice Office participated in extensive discussions with interested external stakeholders and prepared several briefings for Cabinet and Caucus on the proposed reforms and their implications across the public sector.

For the balance of the 2002/2003 fiscal year, the Administrative Justice Office turned its attention to the interrelated issues of tribunal appointments and the role of the tribunal chair in providing effective and accountable oversight of tribunal operations. In this respect, the Office has:

- developed recommendations for legislation to establish an open and transparent appointment process, based on merit;
- developed recommendations for legislation to recognize the role of tribunal chairs in the appointments process;
- addressed issues of term, tenure, compensation and termination;
- developed recommendations for clarifying the powers, duties, authority and responsibilities of tribunal chairs;
- participated in developing enhanced methods for improving the public accountability of tribunals through operating agreements between government and tribunal chairs; and
- initiated discussions to reduce and consolidate the number of host ministries that provide services and support to administrative tribunals.

By the end of March 2003, the Administrative Justice Office had:

- finalized drafting instructions for legislation to address tribunal appointments and the role of the tribunal chair;
- developed, in consultation with the Board Resourcing and Development Office and the Circle of Chairs, new policies to guide the recruitment and appointment process for tribunal chairs and members;
- developed, in consultation with the Office of the Premier, new policies for compensation for administrative tribunal appointees;
- provided advice to individual host ministries and tribunals on legislative proposals to create, restructure or streamline a variety of administrative decision making processes; and
- participated in the development of model operating agreements between host ministries and tribunals and in the negotiation of several of these agreements.

A copy of the main provisions of the new *Administrative Tribunals Appointment and Administration Act*, Bill 68, Fourth Session, 37th Parliament, is included as Appendix 2. It is anticipated that the Bill will be debated and passed in the Fall Session of the Legislature.

Upcoming Initiatives for 2003/2004

The activities of the Administrative Justice Office in the 2003/2004 fiscal year will focus on completing initiatives that are already underway, implementing the remaining recommendations in the White Paper and continuing to identify new issues of a systemic nature that are relevant to the ongoing delivery of effective and affordable administrative justice services.

The Administrative Justice Office will take the lead in working with host ministries and administrative tribunals to complete the implementation of new legislation and policy for tribunal appointments. As requested and in consultation with the Board Resourcing and Development Office, the Office will also continue to provide advice and perspectives on individual appointment practices and procedures.

The Administrative Justice Office will play a new, earlier and more formal role in the review and evaluation of legislative proposals to establish or alter administrative decision making institutions and processes. To strengthen this role and support the work of host ministries and tribunals, the Office will develop written guidelines that build on the principles articulated in the Background Paper, "*Reviewing Original Decisions: Guiding Principles and Options*", draw from experiences gained through the Core Services Review and reflect discussions and policy decisions that have been made to date in recent legislative sessions.

Where requested, the Administrative Justice Office will continue to work with host ministries and administrative tribunals in developing and negotiating operating agreements. The Office will also continue to explore the principles and issues that arise in reducing or consolidating the number of host ministries that provide services and support to administrative tribunals.

There are a number of emerging issues that the Administrative Justice Office is monitoring and may address, if time and resources permit. These include the application of the principles that have been developed to date to the wider administrative justice community of statutory decision makers, self governing professions and the newly created self regulating bodies. In addition, the Office continues to monitor ongoing issues about the publication of tribunal decisions and public access to their processes and deliberations. And finally, there is an ongoing need to support and enhance the excellent training programs that are offered through the British Columbia Council of Administrative Tribunals.

The primary focus of the new legislative activities of the Administrative Justice Office in the 2003/2004 fiscal year will be to address the statutory powers and procedures of administrative tribunals in a complete and comprehensive way. Work on a policy paper outlining options and recommendations is well advanced. The policy paper will be released for public comment, discussion and debate early in the summer. It will lead to detailed legislative changes to the governing statutes of most administrative tribunals. The Office expects that legislation addressing these issues will be tabled in the Spring session in 2004.

Acknowledgments

The work of a small office can only be successful with strong support and the goodwill of many individuals and organizations. Since July 2001, the Attorney General, the Honourable Geoff Plant, has been the driving force behind the work of the Office, championing its recommendations across government and in a wide variety of public forums. We are indebted to the Attorney General for his vision in leading this initiative and in providing an opportunity for committed practitioners and members of the public to come forward and share their ideas, working together to build a better system of administrative justice for individuals and communities across the province.

The White Paper and the work that lead to the release of the White Paper took place under the guidance of an Advisory Committee drawn from government and from the wider administrative justice community. The committee laboured under tight timelines, providing thoughtful insights and commentary on difficult and often complex issues.

Under the able leadership of Gillian Wallace, Deputy Attorney General, the Advisory Committee included:

Philip Bryden	Faculty of Law, University of British Columbia
Lisa Cowan	Legal Services Branch, Ministry of Attorney General
Margaret Eckenfelder	Ministry of Water, Land and Air Protection
Dianne Flood	Circle of Chairs (to April 30, 2002)
Fern Jeffries	British Columbia Council of Administrative Tribunals
Anne McFarlane	Ministry of Health Services
John Steeves	Circle of Chairs (from May 1, 2002)

The Ministry of Attorney General provided strong legal, policy and administrative support to the Office during the fiscal year. In particular the Office is indebted to Lisa Cowan, Bruce McKinnon and Brian Etheridge for their legal advice, to Susan Christie and the staff in the ministry's office for agencies, boards and commissions for their policy advice and administrative support and to other ministry staff who assisted in specific projects including Karen Horsman, Nils Jensen, Anne Preyde, Erin Shaw and Kelly-Ann Speck. Gabriella Sandor provided dedicated administrative support services to the office for most of the fiscal year.

Several contractors contributed to the reports and White Paper including Deborah Lovett, Q.C., Jill McIntyre and Angela Weltz. The Office is indebted to these individuals for their professionalism and commitment to the overall success of the Office.

The Administrative Justice Office has been a strong supporter of the University of Victoria's co-operative education program. Students from both the Faculty of Law and the School of Public Administration have spent four month work terms with the Office, contributing in very positive ways to its work. We wish to thank Melanie Friesen, Elizabeth Loughran and Katherine Waters for their timely and very helpful contributions to the Office over the past year.

Appendix 1: Status Report on Implementation of Core Services Review Recommendations

Administrative Tribunal (as of February 7, 2002)	Core Services Review Recommendation and Current Status	Implementing Legislation (as of May 29, 2003)
Agricultural Marketing Boards (including the BC Marketing Board)	Boards to be examined as part of comprehensive review of agricultural marketing and regulation.	No legislation required at this time.
BC Benefits Tribunal BC Benefits Appeal Board	Internal ministry process simplified. Tribunal and Appeal Board replaced with a single appeal to a new Employment and Assistance Appeal Tribunal.	*Employment and Assistance Act*, S.B.C. 2002, c. 40 and *Employment and Assistance for Persons with Disabilities Act*, S.B.C. 2002, c. 41, in force September 30, 2002 (B.C. Reg. 263.2002).
Board of Parole	No change recommended.	No legislation required.
Building Code Appeal Board	No change required.	No legislation required.
Children's Commission Child, Youth and Family Advocate	Key functions of the Children's Commission and the Child, Youth and Family Advocate consolidated in a new Office for Children and Youth which, in turn, is subject to review and evaluation within 5 years.	*Office for Children and Youth Act*, S.B.C. 2002, c. 50, in force September 30, 2002 (B.C. Reg. 266/2002).
Commercial Appeals Commission	Commission to be eliminated and replaced with internal reviews, limited appeals to court and appeals to a new, streamlined Financial Services Tribunal.	*Commercial Appeals Commission Repeal Act*, Bill 70, Fourth Session, 37th Parliament.
Commissions of Inquiry (under *Inquiry Act*)	Act to be reviewed and modernized.	Legislation under review.
Community Care Facility Appeal Board	Review process to be streamlined and board to be renamed the Community Care and Assisted Living Appeal Board.	*Community Care and Assisted Living Act*, S.B.C. 2002, c. 75. Not in force.

Appendix 1: Status Report on Implementation of Core Services Review Recommendations, cont'd.

Administrative Tribunal (as of February 7, 2002)	Core Services Review Recommendation and Current Status	Implementing Legislation (as of May 29, 2003)
Coroners Service	Administrative efficiencies being considered and implemented.	No legislation required.
Criminal Records Review Program Adjudicators Criminal Records Review Appeal Panel	Program adjudicators and appeal panel being eliminated. Risk assessments transferred to deputy registrar and reviews transferred to registrar.	*Public Safety and Solicitor General Statutes Amendment Act*, 2002, S.B.C. 2002, c. 52, in force July 15, 2002 (B.C. Reg. 173/2002).
Disaster Financial Assistance Appeal Board	Appeal board to be eliminated. Responsibility for review decisions transferred to the director, provincial emergency programs.	*Miscellaneous Statutes Amendment Act, 2003*, S.B.C. 2003, c. 7. Not in force.
Electrical Safety Appeal Board	Board to be consolidated with other safety appeal boards.	*Safety Authority Act*, S.B.C. 2003, c. 38. Not in force.
Elevating Devices Appeal Board	Board to be consolidated with other safety appeal boards.	*Safety Authority Act*, S.B.C. 2003, c. 38. Not in force.
Employment Standards Tribunal	Administrative integration with Labour Relations Board completed.	No legislation required.
Environmental Appeal Board	Board to be consolidated with Forest Appeals Commission.	Legislation under review.
Expropriation Compensation Board	Early dispute resolution processes to be authorized by legislative amendments.	*Miscellaneous Statutes Amendment Act (No. 2), 2003*, S.B.C. 2003, c. 37. Not in force.
Farm Practices Board	Board to be consolidated with BC Marketing Board.	*Miscellaneous Statutes Amendment Act, 2003*, S.B.C. 2003, c. 7. Not in force.

Appendix 1: Status Report on Implementation of Core Services Review Recommendations, cont'd.

Administrative Tribunal (as of February 7, 2002)	Core Services Review Recommendation and Current Status	Implementing Legislation (as of May 29, 2003)
Financial Institutions Commission	Regulatory burden to be reduced through harmonization, better customer information and focusing of resources on areas of highest risk.	No legislation required.
Fire Commissioner	No change required.	No legislation required.
Forest Appeals Commission	Commission to be consolidated with Environmental Appeal Board.	Legislation under review.
Forest Practices Board	Administrative efficiencies to be achieved through streamlined industry audits.	No legislation required.
Gaming Commission	Gaming commission eliminated and replaced with internal review by general manager of Gaming Policy and Enforcement Branch.	*Gaming Control Act*, S.B.C. 2002, c. 14, in force August 19, 2002 (B.C. Reg. 208/2002).
Gas Safety Appeal Board	Board to be consolidated with other safety appeal boards.	*Safety Authority Act*, S.B.C. 2003, c. 38. Not in force.
Health Care and Care Facility Review Board	Board to be wound up.	Legislation being drafted.
Health Care Practitioners Special Committee for Audit	No change required.	No legislation required.
Hospital Appeal Board	No change required.	No legislation required.

Appendix 1: Status Report on Implementation of Core Services Review Recommendations, cont'd.

Administrative Tribunal (as of February 7, 2002)	Core Services Review Recommendation and Current Status	Implementing Legislation (as of May 29, 2003)
Human Rights Advisory Council Human Rights Commission Human Rights Tribunal	Advisory Council and Commission eliminated. Tribunal restructured to provide a single, direct access model for the adjudication of human rights complaints.	*Human Rights Code Amendment Act, 2002*, S.B.C. 2002, c. 62, in force March 31, 2003 (B.C. Reg. 79/2003).
Labour Relations Board	Administrative integration with Employment Standards Tribunal completed.	No legislation required.
Land Reserve Commission	Commission restructured to accommodate regional interests. Renamed Provincial Agricultural Land Commission.	*Agricultural Land Commission Act*, S.B.C. 2002, c. 36, in force November 1, 2002 (B.C. Reg. 171/2002).
Liquor Appeal Board	Appeal board to be wound up and replaced with internal review process.	*Miscellaneous Statutes Amendment Act (No. 2) 2002*, S.B.C. 2002, c. 48. Sections 37, 38, 43, 44 and 71 in force May 30, 2002. Sections 36 and 39 in force by regulation following completion of final appeals.
Manufactured Home Park Dispute Resolution Committee	Committee to be abolished and replaced with adjudication by residential tenancy arbitrators.	*Manufactured Home Park Tenancy Act*, S.B.C. 2002, c. 77. Not in force.
Mediation and Arbitration Board	No change required.	No legislation required.
Medical and Health Care Services Appeal Board	Board to be wound up.	Legislation being drafted.
Medical Services Commission	Review deferred.	No legislation required.

Appendix 1: Status Report on Implementation of Core Services Review Recommendations, cont'd.

Administrative Tribunal (as of February 7, 2002)	Core Services Review Recommendation and Current Status	Implementing Legislation (as of May 29, 2003)
Mental Health Review Panels	System of representative members to be abolished and replaced with appointment of neutral, impartial adjudicators.	*Miscellaneous Statutes Amendment Act (No. 2) 2002*, S.B.C. 2002, c. 48, Not in force. *Administrative Tribunals Appointment and Administration Act*, Bill 68, Fourth Session, 37th Parliament.
Mineral Tax Review Board	Board eliminated and appeal process integrated with other tax appeals.	*Provincial Revenue Statutes Amendment Act, 2003*, S.B.C. 2003, c. 23, in force April 10, 2003.
Motion Picture Appeal Board	Appeal board to be wound up and replaced with internal review process.	*Public Safety and Solicitor General Statutes Amendment Act*, 2002, S.B.C. 2002, c. 52. Not in force.
Motor Carrier Commission	Role to be re-examined within context of de-regulation initiatives.	No legislation required at this time.
Motor Dealer Customer Compensation Fund Board	Responsibility for fund transferred to registrar of motor dealers.	No legislation required.
Power Engineers and Boiler and Pressure Vessel Safety Appeal Board	Board to be consolidated with other safety appeal boards.	*Safety Authority Act*, S.B.C. 2003, c. 38. Not in force.
Private Post-Secondary Education Commission	Commission to be eliminated and replaced with self-regulating, self-funded board.	*Private Career Training Institutions Act*, Bill 52, Fourth Session, 37th Parliament.
Property Assessment Appeal Board	Administrative efficiencies to be implemented. Feasibility of merge with review panels to be addressed by end of 2004.	No legislation required at this time.

Appendix 1: Status Report on Implementation of Core Services Review Recommendations, cont'd.

Administrative Tribunal (as of February 7, 2002)	Core Services Review Recommendation and Current Status	Implementing Legislation (as of May 29, 2003)
Property Assessment Review Panels	Administrative efficiencies to be implemented. Feasibility of merge with appeal board to be addressed by end of 2004.	No legislation required at this time.
Public Service Appeal Board	Board to be eliminated and replaced by staffing review through Merit Commissioner.	*Public Service Amendment Act, 2003*, Bill 71, Fourth Session, 37th Parliament.
Racing Commission	Racing Commission eliminated and replaced with internal review by general manager of Gaming Policy and Enforcement Branch.	*Gaming Control Act*, S.B.C. 2002, c. 14, in force August 19, 2002 (B.C. Reg. 208/2002).
Residential Tenancy Office	Adjudicative process to be streamlined. Open-ended appointments to be replaced with appointments for fixed terms.	*Residential Tenancy Act*, S.B.C. 2002, c. 78. Not in force.
Review Board (Criminal Code)	Administrative efficiencies to be achieved through improved use of technology and centralized hearings.	No legislation required.
Securities Commission	Deregulation plan to be implemented in phases to reduce fees, shift organizational culture and exploit technology.	*Securities Amendment Act, 2002*, S.B.C. 2002, c. 32, in force in part September 20, 2002 (B.C. Reg. 260/2002). Main implementing legislation - new proposed *Securities Act* - published for comment on April 15, 2003.
Travel Assurance Board	Responsibility for fund transferred to registrar of travel agents.	No legislation required.

Appendix 1: Status Report on Implementation of Core Services Review Recommendations, cont'd.

Administrative Tribunal (as of February 7, 2002)	Core Services Review Recommendation and Current Status	Implementing Legislation (as of May 29, 2003)
Utilities Commission	Responsibilities to be addressed in conjunction with new energy policies and corporate restructuring.	*Insurance Corporation Amendment Act, 2003*, S.B.C. 2003, c. 35. Not in force. *Transmission Corporation Act*, S.B.C. 2003, c. 44. Not in force. *Utilities Commission Amendment Act*, S.B.C. 2003, c. 46, in force May 29, 2003.
Workers' Compensation Board (Appeal Division and Medical Review Panels) Workers' Compensation Review Board	Appellate and review functions consolidated in a new internal review process and a new Appeal Tribunal.	*Workers Compensation Amendment Act (no. 2) 2002*, S.B.C. 2002, c. 66, in force March 3, 2003 (B.C. Reg. 320/2002).

Appendix 2: *Administrative Tribunals Appointment and Administration Act*, Bill 68, Fourth Session, 37th Parliament (First Reading – May 28, 2003)

The text of the main provisions of the new appointments legislation for administrative tribunals is provided here for information purposes only. Consequential amendments to individual tribunal statutes are not included in this Appendix. The full text of Bill 68 is available at http://www.legis.gov.bc.ca.

2003 Legislative Session: 4th Session, 37th Parliament
FIRST READING

HONOURABLE GEOFF PLANT
ATTORNEY GENERAL AND MINISTER RESPONSIBLE
FOR TREATY NEGOTIATIONS

BILL 68 -- 2003

ADMINISTRATIVE TRIBUNALS APPOINTMENT AND ADMINISTRATION ACT

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of British Columbia, enacts as follows:

Definitions

1 In this Act:

"administrative tribunal" means a tribunal to which this Act or any section of this Act applies as provided under another Act;

"appointing authority" means the person or the Lieutenant Governor in Council who, under another Act, has the power to appoint the chair, vice chair and members, or any of them, to an administrative tribunal;

"member" means a person appointed to an administrative tribunal to which a section of this Act applies.

Chair's initial term and reappointment

2 (1) The chair of the administrative tribunal may be appointed by the appointing authority, after a merit based process, to hold office for an initial term of 3 to 5 years.

(2) A member may be reappointed by the appointing authority as the chair of the administrative tribunal for additional terms of up to 5 years.

Member's initial term and reappointment

3 (1) A member, other than the chair, may be appointed by the appointing authority, after a merit based process and consultation with the chair, to hold office for an initial term of 2 to 4 years.

(2) A member may be reappointed by the appointing authority as a member of the administrative tribunal for additional terms of up to 5 years.

Chair's absence or incapacitation

4 (1) If the chair expects to be absent or is absent, the chair may designate a vice chair as the acting chair.

(2) If the chair expects to be absent or is absent and there is no vice chair, the chair may designate a member as the acting chair.

(3) Despite subsections (1) and (2), if the chair is absent or incapacitated for an extended period of time, the appointing authority may designate a vice chair as the acting chair.

(4) Despite subsections (1) and (2), if the chair is absent or incapacitated for an extended period of time and there is no vice chair, the appointing authority may designate a member as the acting chair.

(5) Subsections (3) and (4) apply whether or not a person is designated, under the Act under which the chair is appointed, to act on behalf of the chair.

(6) A person designated under any of subsections (1) to (4) has all the powers and may perform all the duties of the chair.

Member's absence or incapacitation

5 If a member is absent or incapacitated for an extended period of time or expects to be absent for an extended period of time, the appointing authority, after consultation with the chair, may appoint another person, who would otherwise be qualified for appointment as a member, to replace the member until the member returns to duty or the member's term expires, whichever comes first.

Temporary, non-renewable appointments

6 (1) If the administrative tribunal requires additional members, after consultation with the minister responsible for the Act under which the administrative tribunal is established, the chair may appoint an individual, who would otherwise be qualified for appointment as a member, to be a member for up to 6 months.

(2) Under subsection (1), an individual may be appointed to the tribunal only once in any 2 year period.

(3) An appointing authority may establish conditions and qualifications for appointments under subsection (1).

Powers after resignation or expiry of term

7 (1) If a member resigns or their appointment expires, the chair may authorize that individual to continue to exercise powers as a member of the administrative tribunal in any proceeding over which that individual had jurisdiction immediately before the end of their term.

(2) An authorization under subsection (1) continues until a final decision in that proceeding is made.

(3) If a person performs duties under subsection (1), section 10 applies.

Termination for cause

8 The appointing authority may terminate the appointment of the chair, a vice chair or a member for cause.

Responsibilities of the chair

9 The chair is responsible for the effective management and operation of the tribunal and the organization and allocation of work among the members.

Remuneration and benefits for members

10 In accordance with general directives of the Treasury Board, members may be paid remuneration and must be reimbursed for reasonable travelling and out of pocket expenses necessarily incurred in carrying out their duties.

Consequential Amendments

Sections 11-65.

Transitional Provisions

Transitional: Conversion of existing appointments to conforming terms

66 (1) Subject to subsections (2) and (3), on the coming into force of an amendment made to any other Act by this Act, any existing appointment under a provision of that other Act, if the provision is amended by this Act, is governed by the following rules:

(a) an appointment as a chair that was expressed to be made at pleasure or without a specified term is converted to a term of 5 years starting on the day the amendment comes into force;

(b) an appointment as a member, other than a chair, that was expressed to be made at pleasure or without a specified term is converted to a term of 4 years starting on the day the amendment comes into force;

(c) an existing appointment as a chair or other member that was made for a specified term is continued until the end of the term.

(2) On the coming into force of section 20, existing appointments of individuals as adjudicators who were appointed by the chair under the *Employment Standards Act* are cancelled and those individuals are appointed as members under section 102 (b) of the *Employment Standards Act* for a term equal to the remainder of their existing terms.

(3) On the coming into force of section 60, existing designations, made before the coming into force of this section, of members of the British Columbia Securities Commission as the chair and vice chairs of the commission and the appointments of those members are continued as expressed in the orders by which they were appointed.

(4) An appointment to which this section applies must be considered to have been made after a merit based process.

Transitional: No action for damages or compensation in respect of *Public Sector Employers Act*

67 No action for damages or compensation may be brought against the government or any person because of amendments made by this Act to the *Public Sector Employers Act*.

Transitional: Effect of amendments on contracts of employment

68 On the date that section 14.9 (3) to (5) of the *Public Sector Employers Act*, as enacted by section 53 of this Act, comes into force,

(a) section 14.9 (3) to (5) of that Act is deemed, in respect of a member of a tribunal referred to in section 14.9 (1) of that Act, to be included in all contracts of employment related to the member's appointment, that are commenced, changed or renewed on or after that date, and

(b) any provision of an applicable contract of employment referred to in paragraph (a) that conflicts with or is inconsistent with section 14.9 (3) to (5) of that Act is void to the extent of the conflict or inconsistency.

Commencement

69 (1) This Act, except section 45, comes into force by regulation of the Lieutenant Governor in Council.

(2) On coming into force, section 53 is deemed to have come into force on the day the *Administrative Tribunals Appointment and Administration Act* receives First Reading in the Legislative Assembly.